UNITED STATES GOVERNMENT
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 31

PROVIDENCE HEALTH SYSTEM – CALIFORNIA
d/b/a PROVIDENCE HEALTH SERVICES,[1]
Employer,

and **Case No. 31-RC-8772**

NATIONAL UNION OF HEALTHCARE WORKERS,
Petitioner,

and

SEIU-UHW-W,
Intervenor

DECISION AND DIRECTION OF ELECTION[2]

I. INTRODUCTION

A. Background

The Employer operates an acute care hospital located in Tarzana, California (Tarzana Facility). The Tarzana Facility includes about six buildings, including the main building, human resources, executive office, medical records, and the Out-Patient Imaging Center (OPIC).

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[1] The name of the Employer appears as corrected at the hearing.

[2] The Board has delegated its authority in this proceeding to me under Section 3(b) of the Act.

On September 24, 2009, the National Union of Healthcare Workers (Petitioner NUHW) filed a petition in case 31-RC-8772 under Section 9(c) of the National Labor Relations Act, as amended, seeking to represent a unit of hospital employees employed by Providence Health System – California d/b/a Providence Health Services (Providence or Employer) at the Tarzana Facility. Another union, SEIU-UHW-W (Intervenor SEIU-UHW), has been the recognized collective bargaining representative of the Employer's employees in the petitioned-for unit.

B. The Hearings and the Issues

On March 5, 2010, a hearing was held on the petition. The issue presented at the March 5, 2010, hearing was whether the unit currently represented by Intervenor SEIU-UHW should be broken up into four separate units. On May 12, 2010, pursuant to a motion filed by Intervenor SEIU-UHW, the Acting Regional Director issued an order reopening the hearing to consider whether a contract bar exists. The reopened hearing was held on May 24, 2010.

C. Positions of the Parties

With respect to the issue concerning the appropriate unit, Intervenor SEIU-UHW's position is that the current unit should be broken up into the following four separate units: a skilled maintenance unit; a technical unit; a business office clerical unit; and a service and maintenance unit. Intervenor SEIU-UHW asserts that the existing unit described in the prior collective bargaining agreement is no longer appropriate due to changed circumstances, such as the sale of the hospital from Tenet Corporation to Providence Health System, the inclusion of two major departments that had previously been subcontracted out by Tenet, and the creation of at least three new job classifications. Intervenor SEIU-UHW also argues that a change in the unit is warranted by the fact the employees now will have the opportunity to vote for one of two labor organizations on the ballot. At the initial election, the employees only had the option to choose between one union or none. Intervenor SEIU-UHW further asserts that elections in four separate units would be fairer because the employees in each of the proposed units may have varying degrees of support for one of the two unions.

Petitioner NUHW's position is that the unit, as described in the collective bargaining agreement, is an appropriate unit. The Employer did not take a position on this issue.

With respect to the contract bar issue, Intervenor SEIU-UHW and the Employer assert that the agreement signed by predecessor employer Tenet and Intervenor SEIU-UHW in May 2008 is a

contract bar to the petition. Intervenor SEIU-UHW also asserts alternatively that by virtue of the expressed adoption and implementation of the agreement by the Employer on September 18, 2008, a new agreement was created at that time that serves as a contract bar. Petitioner NUHW denies that there is a bar to the petition, noting that the term of the existing contract is from January 1, 2007, through March 31, 2011, and, therefore, could not serve as a bar beyond the anniversary of the third year, January 1, 2010.

I have carefully considered the evidence and argument presented by the parties at the hearings and in their briefs. For the reasons set forth below, I conclude that the petitioned-for unit is appropriate and should not be broken up into four separate units. I further conclude that there is no contract bar to the petition and I am directing that an election be held.

In this Decision, I will first specifically discuss the two issues presented and I will then set forth my conclusions and findings.

II. APPROPIATE UNIT ISSUE

A. Facts

In about 2003, Tenet recognized Intervenor SEIU-UHW as the exclusive collective bargaining representative of employees in a unit that included employees at both the Tarzana facility at issue herein and another facility in Encino. Thereafter, in 2007, Tenet and Intervenor SEIU-UHW negotiated a collective bargaining agreement that encompassed a 14-facility bargaining unit, including the Tarzana Facility. In May 2008, in preparation for the sale of the Tarzana Facility, Tenet and Intervenor SEIU-UHW negotiated an agreement in which Tenet recognized SEIU-UHW as the collective bargaining representative of the following employees at the Tarzana facility:

> **Included**: All full time, regular part-time, and per diem service, maintenance, technical, skilled maintenance, and business office clerical employees;
>
> **Excluded**: All other employees, managers, supervisors, confidential employees, guards, physicians, residents, central business office employees (whether facility based or not) who are solely engaged in qualifying or collection activities or are employed by another Tenet entity, such as Syndicated Office Systems or Patient Financial Services, employees of outside registries and other agencies supplying labor to the Employer and already represented employees.

Thus, by this agreement, the scope of the bargaining unit covering the employees at the Tarzana Facility was changed from a single 14-facility unit to a unit consisting only of employees at the Tarzana Facility. In September 2008, the Tarzana Facility was sold by Tenet to Providence Health System. Since that time, two departments that previously had been contracted out (MRI Department and OPIC Department) were brought in house. In addition, three new job classifications were added to the bargaining unit (Mammography Tech, Laboratory Information System Coordinators, and Coordinator of Emergency Department).

B. Analysis

The Board recognizes that there is more than one way in which employees may be appropriately grouped. The Board's declared policy is to consider only whether the unit requested is *an* appropriate one, even though it may not be the optimum or most appropriate unit for collective bargaining. *Overnite Transportation,* 322 NLRB 723, (1996), citing *Black & Decker Mfg.,* 147 NLRB 825, 828 (1964). A union, therefore, is not required to request representation in the most comprehensive or largest unit of employees of an employer, unless an appropriate unit compatible with the requested unit does not exist; nor is it compelled to seek a narrower appropriate unit if a broader unit is also appropriate. *Id.*

In determining an appropriate unit in a representation case, the Board first considers the unit requested by the union (petitioned-for unit) and whether that unit is appropriate. *Overnite Transportation,* supra, citing *P.J. Dick Contracting,* 290 NLRB 150, 151 (1988). It is only when the petitioned-for unit is not appropriate that the Board may consider an alternative proposal. *Id.* In defining an appropriate unit, the Board typically focuses on whether the employees share a "community of interest." *Overnite Transportation,* 322 NLRB at 724. However, the Board usually applies the community-of-interest test only when delineating units of previously unrepresented employees, not when it is assessing historical units that have had long periods of successful bargaining. *Canal Carting,* 339 NLRB 969 (2003).

The Board is reluctant to disturb units established by collective bargaining as long as those units are not repugnant to the Act's policies. As Intervenor SEIU-UHW acknowledges, the existence of significant bargaining history weighs heavily in favor of finding that a historical unit is appropriate. *Canal Carting* at 970. The Board places a heavy evidentiary burden on the party challenging the historical unit as no longer being appropriate. *Ready Mix, Inc.,* 340 NLRB 946, 947 (2003) (the successor's changes to the administrative structure and managerial hierarchy fell short of

meeting the heavy evidentiary burden where the employees were doing the same jobs in the same locations and under the same working conditions and mainly the same supervision as before the acquisition). The Board in *Ready Mix* noted that "compelling circumstances are required to overcome the significance of bargaining history." *Id.*

With respect to acute care hospitals, the Board has set out the appropriate units in its Health Care Rule (Rule), reported at 284 NLRB 1579, 1596-97 (1989), et seq. Under the Rule, the following units and only these units are appropriate in an acute hospital: all registered nurses; all physicians; all professionals except for registered nurses and physicians; all technical employees; all skilled maintenance employees; all business office clerical employees; all guards; and all other nonprofessional employees. The Rule provides, however, that a petitioning union can request a consolidation of two or more of the above units.

It is undisputed that the historical unit, which includes a consolidation of appropriate units for acute care hospitals as set forth by the Rule, is considered an appropriate unit that is not repugnant to Board policy. The evidence in the record establishes that the inclusions in the petitioned-for unit mirror the inclusions of the existing unit, i.e. historical unit, represented by Intervenor SEIU-UHW. Therefore, in challenging the petitioned-for unit, Intervenor SEIU-UHW is challenging the historical unit.

In its Post-Hearing Brief filed on March 19, 2010, Intervenor SEIU-UHW asserts that it would be more appropriate to conduct an election in four separate units, rather than the historical combined unit. According to Intervenor SEIU-UHW, four separate units would be appropriate due to the following significant changes that took place since the establishment of the initial combined unit: 1) the change in ownership of the Facility; 2) the addition of two new departments; and 3) the addition of three new classifications to the existing unit. In addition, Intervenor SEIU-UHW argues that it would be appropriate to split the unit into four separate units because employees will now have three choices (Petitioner NUHW, Intervenor SEIU-UHW, or no union) whereas at the time of the 2003 election and recognition the employees had only two choices (Intervenor SEIU-UHW or no union). Intervenor SEIU-UHW also asserts that splitting the unit into four units would provide employees in the bargaining unit with a more fair choice because there are varying degrees of support for the different unions in the four prospective units.

I find that the changes identified by Intervenor SEIU-UHW do not meet the evidentiary burden of showing the historical unit as no longer appropriate. In this regard, I note that there is no evidence that the change in ownership had an impact on employee jobs, working conditions, or

supervision. *Ready Mix,* 340 NLRB at 947. Further, Intervenor SEIU-UHW has not established how the addition of two new departments and three new classifications is a "significant change." Prior to the sale of the Tarzana Facility, there were 209 existing classifications in the unit. The addition of three new classifications represents just over 1% of the total classifications. The record lacks any evidence of how the three new classifications have altered the community of interest of the employees or how these new classifications necessitate breaking the unit up into four separate units. Finally, Intervenor SEIU-UHW has adduced neither evidence nor basis under Board law to establish why having a single unit would create an unfair situation.

Accordingly, because Intervenor SEIU-UHW has failed to meet its evidentiary burden by establishing that the historical unit is no longer appropriate, I find that the petitioned-for unit is appropriate. In addition, because I find that the petitioned-for unit is appropriate, it is unnecessary for me to consider the alternative proposal. *Overnite Transportation,* 322 NLRB at 723.

III. CONTRACT BAR ISSUE

A. Facts

As noted above, the predecessor employer, Tenet, and Intervenor SEIU-UHW were parties to a collective bargaining agreement encompassing a multi-facility unit, including employees at the Tarzana Facility, with effective dates from January 1, 2007, through March 31, 2011 (*2007-2011 Collective Bargaining Agreement*).[3] Thereafter, in May 2008, prior to the sale of the Tarzana Facility, Tenet and Intervenor SEIU-UHW executed an agreement in which Tenet recognized Intervenor SEIU-UHW as the representative of employees in a separate unit at the Tarzana Facility (hereinafter referred to as the *May 2008 Agreement*). The cover page of the *May 2008 Agreement* states that it is an "Agreement between Service Employees International Union United Healthcare Workers West (SEIU UHW) (Service, Maintenance, Technical, Skilled Maintenance & Business Office Clerical) and Tarzana Regional Medical Center." In addition, the cover page of the *May 2008 Agreement* shows the effective dates of "January 1, 2007 through March 31, 2010," which were the effective dates of the then existing contract between Tenet and Intervenor SEIU-UHW, the *2007-2011 Collective Bargaining*

[3] It appears from the 2007-2011 Collective Bargaining Agreement in the record that it was not executed until July 2008, although it recites in Article 1 that it was entered into on October 12, 2007 and provides for effective dates of January 1, 2007 through March 31, 2011.

Agreement.[4] The Articles inside the *May 2008 Agreement* are largely the same as the Articles in the *2007-2011 Collective Bargaining Agreement*, with the notable differences being the side letters discussed below.

The *May 2008 Agreement* includes two new side letters that would take effect in the event of the sale of the Tarzana Facility. One side letter states that:

> The Parties agree that upon the effective date of the sale and transfer of ownership of Encino-Tarzana Regional Medical Center-Tarzana Campus and/or Encino Campus, the respective collective bargaining agreement (CBA) attached hereto as Exhibit A – Tarzana/UHW CBA and/or Exhibit B – Encino/UHW CBA shall be in full force and effect immediately, thereby replacing and superseding any previously existing Agreements between the parties.

The other side new side letter provides for a new work stoppage provision that would become effective in the event of a sale of the Tarzana Facility in lieu of Article 24, the previously existing work stoppage provision.

As set forth above, the Employer purchased the Tarzana facility from Tenet on or about September 18, 2008, at which time the Employer adopted and implemented the *May 2008 Agreement*.

B. Analysis

Intervenor SEIU-UHW asserts in its Post-Hearing Brief dated June 1, 2010, that there is a contract bar that precludes an election in this case based upon either the *May 2008 Agreement* entered into by Tenet and Intervenor SEIU-UHW or, alternatively, by virtue of the adoption of that agreement by the Employer on September 18, 2008.

The Employer agrees with Intervenor SEIU-UHW that the *May 2008 Agreement* serves as a contract bar and asserts that the period of time that *May 2008 Agreement* serves as a bar is from May 15, 2008 through its expiration date of March 31, 2011. According to the Employer, it did not assume the *2007-2011 Collective Bargaining Agreement*, which covers a multi-facility unit; rather, it assumed the *May 2008 Agreement*, encompassing only employees in a single-facility unit at the Tarzana Facility. The Employer further notes that since the *May 2008 Agreement* substantively

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[4] Although the *May 2008 Agreement* was executed in May 2008, the recognition provision contained in that agreement contains the language from the 2007-2011 collective bargaining agreement stating that the Agreement was entered into on October 12, 2007.

changed the *2007-2011 Collective Bargaining Agreement*, it constitutes a new agreement for purposes of the contract bar doctrine, which first came into existence in May 2008.

Petitioner asserts that the term of the applicable labor agreement is January 1, 2007, through March 31, 2011, and since it is a four-year agreement, it cannot bar the filing of a petition after the anniversary of the third year.

Under the Board's "contract-bar doctrine," a current and valid collective bargaining agreement will prevent the holding of a representation election. *Hexton Furniture Company*, 111 NLRB 342, 344 (1955). A contract can bar a representation election if it conforms to certain requirements. These basic requirements include that the contract be written, signed, and contain substantial terms and conditions. *Young Women's Christian Assoc. of Western Mass.*, 349 NLRB 762, 766 (2007). However, a contract may only serve as a bar to a representation election for up to three years after its execution. *In Re Dana Corp.*, 351 NLRB 434 (2007). The party asserting a contract bar bears the burden of proof. *Road & Rail Services, Inc.*, 344 NLRB 388 (2005).

At the outset, I note that there is no evidence of any agreement executed by the Employer that would serve as a contract bar. The issue here is whether the *May 2008 Agreement* between Tenet and Intervenor SEIU-UHW, which is the agreement implemented by the Employer, serves as a contract bar to an election pursuant to the petition filed in this matter.

In *Great Atlantic & Pacific Tea Company,* 197 NLRB 922 (1972), the Board held that for contract-bar purposes, a successor's assumption of a contract must be by express written agreement. There is no evidence of an express written assumption by the Employer of the *May 2008 Agreement.* Therefore, under the holding of *Great Atlantic & Pacific Tea Company*, the *May 2008 Agreement* does not serve as a contract bar to the conduct of an election in this matter. In the absence of any evidence of a contract signed by the Employer or of a written assumption by the Employer of an agreement entered into by Tenet, there is no contract bar to an election.

In support of its position that there is a contract bar, Intervenor SEIU-UHW argues that exceptions to the premature extension doctrine are relevant. Under the "premature extension doctrine," a contract is prematurely extended if during its term the contracting parties execute an amendment thereto or a new contract that contains a later terminal date than that of the existing contract. *Deluxe Metal Furniture Co.*, 121 NLRB 995, 1001 (1958). Intervenor SEIU-UHW argues that there are at least two exceptions to the premature extension doctrine that apply to the instant case. First, when the parties execute a contract covering a newly created unit, a new contract covering the newly-created unit is not considered a premature extension of the prior collective bargaining

agreement. *Michigan Bell Telephone Co.*, 182 NLRB 632 (1970). Second, the premature extension doctrine does not apply when a union enters into a new agreement with a successor employer. *Ideal Chevrolet*, 198 NLRB 280 (1972).

The case law applicable to the premature extension doctrine and its exceptions is not relevant here. Since the *May 2008 Agreement* was not executed by the Employer and there is no written assumption by the Employer of that agreement, it is not necessary to consider whether the *May 2008 Agreement* constitutes a premature extension of the *2007-2011 Collective Bargaining Agreement*.

Moreover, *Michigan Bell Telephone* has no bearing on this case. In *Michigan Bell,* the issue was whether a contract covering a newly created unit served as a contract bar or whether the window-period of another prior agreement covering a different unit should control. In that case, the parties had executed a new agreement in a new unit and that agreement was deemed to be a contract bar. Intervenor SEIU-UHW asserts that under the logic of *Michigan Bell,* the operative date of the relevant contract for contract purposes in this matter would be May 2008 when an agreement was executed changing the unit from a multi-facility unit to a unit limited to the Tarzana Facility. However, this argument fails to address the fact that the *May 2008 Agreement* cannot serve as a contract bar since it was not executed by the Employer herein and there was no written assumption by the Employer of that agreement.

Similarly, the *Ideal Chevrolet* case relied upon by Intervenor SEIU-UHW is not applicable. In that case there was a collective bargaining agreement between a union and an employer effective from June 5, 1970, to June 20, 1973. After the dealership was sold to Ideal Chevrolet, that employer entered into a new collective bargaining agreement with the union and the Board concluded that this new agreement served as a contract bar. In contradistinction to the case under consideration here, the successor employer in *Ideal Chevrolet* actually executed the collective bargaining agreement that was deemed to be a contract bar.

Thus, although the Employer herein implemented the terms of the *May 2008 Agreement*, it did not enter into a written agreement that would have re-started the clock ticking for the purposes of the contract-bar doctrine under *Michigan Bell* or *Ideal Chevrolet*. See *Trans-American Video, Inc.*, 198 NLRB 1247 (1972) (the contract bar doctrine is not applicable where the employer's voluntary assumption of the predecessor's contract was not express and in writing); *Great Atlantic & Pacific Tea Co.*, 197 NLRB 922 (1972) (for contract-bar purposes, a successor's assumption of the contract must be by express written agreement).

Moreover, even if the Employer had adequately assumed the *May 2008 Agreement*, that Agreement would fail to serve as a contract bar because the effective dates of the contract are not apparent on the face of the document. As the Board noted in *South Mountain Healthcare & Rehab Center,* 344 NLRB 375 (2005), "to serve as a bar to a petition, a contract must contain substantial terms and conditions of employment deemed sufficient to stabilize the bargaining relationship." The effective date and the expiration date are material terms of the contract and must be apparent from the face of the contract, without resort to parole evidence. *Id.* With respect to the effective date of the *May 2008 Agreement*, the cover page references effective dates of January 1, 2007 through March 31, 2011; that agreement was executed in May 2008; the recognition clause states that the Agreement was entered into on October 12, 2007; and a side letter provides that it will be in full force and effect, superseding any previous agreement, upon the effective date of the sale and transfer of the Tarzana Facility, a date which is not apparent from the language of the Agreement. Intervenor SEIU-UHW and the Employer argue that the effective date actually is May 2008, when it was executed and Intervenor SEIU-UHW argues in the alternative that the effective date is September 18, 2008, when it was adopted by the Employer. In these circumstances, the *May 2008 Agreement* would not bar the petition in this matter even if there had been an express written assumption of the contract by the Employer.

Accordingly, because Intervenor SEIU-UHW and the Employer have failed to meet their evidentiary burden by establishing that there is a contract that bars the instant petition, I find that there is no contract bar blocking the instant petition.

IV. CONCLUSIONS AND FINDINGS

On the basis of the foregoing and the record as a whole, I conclude and find that the petitioned-for unit is appropriate and that there is no contract bar to the petition. Furthermore, upon the entire record in this proceeding and for the reasons set forth above, I find:

A. HEARING OFFICER RULINGS: The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.[5]

B. JURISDICTION: The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction in this matter.[6]

C. LABOR ORGANIZATIONS: The parties stipulated and I find that Petitioner NUHW is a labor organization within the meaning of Section 2(5) of the Act.

The parties stipulated and I find that Intervenor SEIU-UHW is a labor organization within the meaning of Section 2(5) of the Act and has been the exclusive bargaining representative of certain employees of the Employer.

D. QUESTION CONCERNING COMMERCE: A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of the Section 9(c)(1) and Section 2(6) and (7) of the Act.

E. APPROPRIATE UNIT: I find that the following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

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[5] By letter dated February 17, 2010, Intervenor SEIU-UHW challenged my decision to hold the pre-election hearing. By letter dated February 23, 2010, I set forth the reasons for my decision. On March 2, 2010, Intervenor SEIU-UHW filed a motion to stay the hearing on the basis that there were pending unfair labor practice charges. At the March 5, 2010, hearing, the motion was denied by the Hearing Officer for the reasons set forth in my February 23, 2010, letter. On April 26, 2010, the Board issued an order denying Intervenor SEIU-UHW's appeal of the direction of a pre-election hearing. I also note that the determination of whether a charge should block an election is an administrative matter not properly litigated at a pre-election hearing.

At the hearing, Intervenor SEIU-UHW's attempted to challenge the Petitioner NUHW's showing of interest. However, as the hearing officer ruled, this is an administrative matter not subject to litigation at representation hearings. *O.D. Jennings & Co.*, 68 NLRB 516 (1946). Moreover, as the parties were informed at the hearing, I am administratively satisfied that the Petitioner NUHW's showing of interest is sufficient and adequate.

[6] The Employer, Providence Health System – California d/b/a Providence Health Services, is a California corporation engaged in the operation of an acute care hospital at its facility located in Tarzana, California. Within the past twelve months, a representative period, the Employer's gross revenues exceeded $250,000, and during the same period of time, the Employer purchased and received goods, supplies, and materials valued in excess of $5,000 directly from enterprises located outside the State of California.

INCLUDED:	All full time, regular part-time, and per diem service, maintenance, technical, skilled maintenance and business office clerical employees employed by the Employer at its Tarzana facility.
EXCLUDED:	All other employees, confidential employees, guards and supervisors as defined in the Act.

There are approximately 574 employees in the petitioned-for unit.

DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the Unit found appropriate above. The employees will vote whether or not they wish to be represented for purposes of collective bargaining by **the Petitioner, National Union of Healthcare Workers**, or by **the Intervenor, SEIU-UHW-W**. The date, time, and place of the election will be specified in the notice of election that the Board's Regional Office will issue subsequent to this Decision.

Voting Eligibility

Eligible to vote in the election are those in the unit who were employed during the payroll period ending immediately before the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

Employer to Submit List of Eligible Voters

To ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969).

Accordingly, it is hereby directed that within 7 days of the date of this Decision, the Employer must submit to the Regional Office an election eligibility list, containing the ***full*** names and addresses of all the eligible voters. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). The list must be of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting process, the names on the list should be alphabetized (overall or by department, etc.). This list may initially be used by the Region to assist in determining an adequate showing of interest. The Region shall, in turn, make the list available to all parties to the election.

To be timely filed, the list must be received in the NLRB Region 31 Regional Office, 11150 W. Olympic Boulevard, Suite 700, Los Angeles, California 90064-1824, on or before **June 22, 2010**. No extension of time to file this list will be granted except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file this list. Failure to comply with this requirement will be grounds for setting aside the election whenever proper objections are filed. The list may be submitted to the Regional office by electronic filing through the Agency's website, **www.nlrb.gov**,[7] by mail, by hand or courier delivery, or by facsimile transmission at (310) 235-7420. The burden of establishing the timely filing and receipt of this list will continue to be placed on the sending party. Since the list will be made available to all parties to the election, please furnish a total of **three** copies, unless the list is submitted by facsimile or e-mail, in which case no copies need be submitted. If you have any questions, please contact the Regional Office.

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[7] To file the eligibility list electronically, go to www.nlrb.gov and select the **E-Gov** tab. Then click on the **E-Filing** link on the menu. When the E-File page opens, go to the heading **Regional, Subregional and Resident Offices** and click on the "File Documents" button under that heading. A page then appears describing the E-Filing terms. At the bottom of this page, check the box next to the statement indicating that the user has read and accepts the E-Filing terms and click the "Accept" button. Then complete the filing form with information such as the case name and number, attach the document containing the eligibility list, and click the Submit Form button. Guidance for E-filing is contained in the attachment supplied with the Regional Office's initial correspondence on this matter and is also located under "E-Gov" on the Board's web site, www.nlrb.gov.

Notice of Posting Obligations

According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices to Election provided by the Board in areas conspicuous to potential voters for a minimum of 3 working days prior to 12:01 a.m. of the day of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed. Section 103.20(c) requires an employer to notify the Board at least 5 full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570-0001. This request must be received by the Board in Washington by 5 p.m., EDT on **June 29, 2010**. The request may be filed electronically through the Agency's web site, www.nlrb.gov,[8] but may not be filed by facsimile.

DATED at Los Angeles, California this 15th day of June, 2010.

/s/ *James J. McDermott*

James J. McDermott, Regional Director
National Labor Relations Board
Region 31

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[8] To file the request for review electronically, go to www.nlrb.gov and select the **E-Gov** tab. Then click on the **E-Filing** link on the menu. When the E-File page opens, go to the heading **Board/Office of the Executive Secretary** and click on the "File Documents" button under that heading. A page then appears describing the E-Filing terms. At the bottom of this page, check the box next to the statement indicating that the user has read and accepts the E-Filing terms and click the "Accept" button. Then complete the filing form with information such as the case name and number, attach the document containing the request for review, and click the Submit Form button. Guidance for E-filing is contained in the attachment supplied with the Regional Office's initial correspondence on this matter and is also located under "E-Gov" on the Board's web site, www.nlrb.gov.